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15 SEP 2006

In re Application of
SAWALL, Rolf-Reiner et al.
Application No.: 10/538,430
PCT No.: PCT/EP03/13418
Int. Filing Date: 28 November 2003
Priority Date: 12 December 2002
Attorney's Docket No.: 235838
For: HAND HELD YARN MEASURING
DEVICE

DECISION ON

REQUEST

UNDER 37 CFR 1.42

This is a decision on applicants' 06 March 2006, submission of a declaration containing an indication that joint inventor Rolf-Reiner Sawall is deceased. The declaration has been treated as a request for status under 37 CFR 1.42.

BACKGROUND

On 28 November 2003, applicants filed international application PCT/EP03/13418, which claimed a priority date of 12 December 2002. A copy of the international application was transmitted to the Office by the International Bureau on 24 June 2004. The deadline for entry into the national stage in the United States was 12 June 2005.

On 10 June 2005, applicants filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee.

On 07 November 2005, the Office mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration of the inventors and the fee for late furnishing of the search fee, examination fee or oath or declaration were required.

On 06 March 2006, applicants submitted a declaration of the inventors, with an indication that a joint inventor was deceased, the surcharge for late filing of the search fee, examination fee or the oath or declaration and the fee for an extension of time.

DISCUSSION

Under 35 U.S.C. §117, legal representatives of deceased inventors may make application for patent upon compliance with the requirements and on the same terms and conditions applicable to the inventor. The "legal representative (executor, administrator, etc.) of the deceased inventor may make the necessary oath or declaration, and apply for and obtain the patent." 37 CFR 1.42.

The declaration lists the inventors and their citizenships and the legal representatives and each legal representative's citizenship, residence and postal address. See 37 CFR 1.497. However, the date

has been added to the declaration. The alteration is neither initialed nor dated. It is improper for anyone including counsel to alter an oath or declaration subsequent to execution by the inventors. MPEP 605.04(a). A new oath or declaration of the inventors is required.

Further, the declaration contains foreign language text, but it is not a USPTO form and is not accompanied by a statement that the English text is an accurate translation of the foreign text. See 37 CFR 1.69.

CONCLUSION

For the above reasons, the request for status under 37 CFR 1.42 is **REFUSED**.

Applicant is required to submit a declaration in compliance with 37 CFR 1.497(a)-(b) and 1.42 within a time period of **TWO (2) MONTHS** from the mail date of this Decision. **THIS PERIOD FOR RESPONSE MAY BE EXTENDED UNDER 37 CFR 1.136(a). FAILURE TO PROPERLY RESPOND WILL RESULT IN ABANDONMENT.** Any request for reconsideration of this decision should include a cover letter entitled "Renewed Submission Under 37 CFR 1.42."

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.



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